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105TH CONGRESS  
2D SESSION

# H. R. 4339

To amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the Medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1998

Mr. RAHALL (for himself, Mr. WISE, Mr. COOK, and Mr. WATTS of Oklahoma) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the Medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Medicare Home Health  
3 Beneficiary Protection Act of 1998".

**4 SEC. 2. MODIFICATION OF HOME HEALTH SERVICES COST  
5 LIMITS.**

6 (a) ESTABLISHMENT OF A MORATORIUM ON IMPLI-  
7 MENTATION OF PER BENEFICIARY LIMITS UNDER IN-  
8 TERIM PAYMENT SYSTEM.—Section 1861(v)(1)(L) of the  
9 Social Security Act (42 U.S.C. 1395x(v)(1)(L)) (as  
10 amended by section 4602(c) of the Balanced Budget Act  
11 of 1997) is amended by striking clauses (v), (vi), and (vii).

12 (b) PER VISIT COST LIMITS.—

13 (1) BASIS FOR LIMITS.—Section  
14 1861(v)(1)(L)(i) of the Social Security Act (42  
15 U.S.C. 1395x(v)(1)(L)(i)) (as amended by section  
16 4602(a) of the Balanced Budget Act of 1997) is  
17 amended—

18 (A) in subclause (III)—

19 (i) by striking "October 1, 1997" and  
20 inserting "July 1, 1997"; and

21 (ii) by striking "or" at the end;

22 (B) by amending subclause (IV) to read as  
23 follows:

24 "(IV) July 1, 1997, and before July 1, 2000,  
25 112 percent of such mean applicable for cost report-

1       ing periods beginning on or after July 1, 1996, and  
2       before July 1, 1997, and"; and

3                     (C) by adding at the end the following:

4                     “(V) July 1, 2000, 112 percent of the mean of  
5       the labor-related and nonlabor per visit costs for  
6       freestanding home health agencies.”.

7                     (2) ESTABLISHING A 3-YEAR FREEZE ON COST  
8       LIMITS.—Section 1861(v)(1)(L)(iii) of such Act (42  
9       U.S.C. 1395x(v)(1)(L)(iii)) (as amended by section  
10      4602 of the Balanced Budget Act of 1997) is  
11      amended by striking “October 1, 1997” and inserting  
12      “July 1, 2000”.

13      **SEC. 3. STRENGTHENING MEDICARE OVERSIGHT OF HOME  
14                     HEALTH SERVICES EXPENDITURES.**

15                     (a) IN GENERAL.—Section 4614 of the Balanced  
16       Budget Act of 1997 is amended by redesignating sub-  
17       section (c) as subsection (d) and inserting after subsection  
18       (b) the following:

19                     “(c) PROCEDURES TO ELIMINATE INAPPROPRIATE  
20       UTILIZATION OF HOME HEALTH SERVICES.—

21                     “(1) IN GENERAL.—The Secretary of Health  
22       and Human Services shall establish a process for  
23       eliminating inappropriate utilization of home health  
24       services by reviewing claims for reimbursement of  
25       such services furnished under the medicare program

1 under title XVIII of the Social Security Act (42  
2 U.S.C. 1395 et seq.) in which the number of home  
3 health visits provided to a beneficiary in a year ex-  
4 ceeds the regional average of per beneficiary annual  
5 visits.

6 “(2) REFERRAL TO INSPECTOR GENERAL.—If  
7 the Secretary of Health and Human Services deter-  
8 mines appropriate, the Secretary shall—

9           “(A) issue a determination denying pay-  
10           ment for a claim described in paragraph (1);  
11           and

12           “(B) refer the name of the provider that  
13           submitted such claim to the Office of Inspector  
14           General of the Department of Health and  
15           Human Services for investigation.

16           “(3) APPLICATION.—This subsection shall  
17           apply to claims for reimbursement submitted after  
18           the process described in paragraph (1) is estab-  
19           lished.”.

20           (b) REPORTS TO CONGRESS.—Section 4616(b) of the  
21           Balanced Budget Act of 1997 (42 U.S.C. 1395y note) is  
22           amended by adding at the end the following: “The Sec-  
23           retary shall include in each of the reports for fiscal years  
24           1999 through 2002 recommendations regarding changes  
25           to the method of payment, claims review, and scope of

1 benefits that the Secretary determines is necessary to  
2 achieve actual outlays under such parts for such services  
3 during the following fiscal year that are equal to the esti-  
4 mated outlays under subsection (a) for such year.”.

5 **SEC. 4. MODIFICATION OF CALCULATION OF PAYMENT**

6                   **AMOUNT FOR HOME HEALTH SERVICES**  
7                   **UNDER THE PROSPECTIVE PAYMENT SYS-**  
8                   **TEM.**

9                 (a) ESTABLISHMENT OF EQUITABLE LIMITS FOR  
10 CALCULATING PROSPECTIVE PAYMENT RATES.—

11                 (1) IN GENERAL.—Section 1895(b)(3)(A)(i) of  
12 the Social Security Act (42 U.S.C.  
13 1395fff(b)(3)(A)(i)) (as added by section 4603 of  
14 the Balanced Budget Act of 1997) is amended by in-  
15 serting “the greater of \$21,200,000,000 or” after  
16 “equal to”.

17                 (2) CONTINGENCY.—Section 4603(e) of the  
18 Balanced Budget Act of 1997 (42 U.S.C. 1395fff  
19 note) is amended—

20                 (A) by striking “If” and inserting the fol-  
21 lowing:

22                 “(1) IN GENERAL.—If”;

23                 (B) in paragraph (1) (as redesignated by  
24 subparagraph (A)), by striking “provide for a

1 reduction by 15 percent" and all that follows  
2 and inserting the following: "provide—

3 "(A) for such cost reporting periods that  
4 begin before October 1, 2002, for an adjust-  
5 ment to the cost limits described in section  
6 1861(v)(1)(L) of such Act so that the total  
7 amounts payable for such services in a fiscal  
8 year is equal to the greater of—

9 " (i) the applicable amount (as defined  
10 in paragraph (2); or

11 " (ii) the total amount of payments for  
12 such services that would have been made  
13 in such fiscal year if such cost limits (as  
14 those limits would otherwise be in effect on  
15 September 30, 1999) had been reduced by  
16 15 percent; and

17 " (B) for such cost reporting periods that  
18 begin on or after October 1, 2002, for a reduc-  
19 tion by 15 percent in such cost limits (as so in  
20 effect)."; and

21 (C) by adding at the end the following:

22 " (2) APPLICABLE AMOUNT DEFINED.—In para-  
23 graph (1), the term 'applicable amount' means the  
24 following amount:

1               “(A)      For      fiscal      year      2000,  
2               \$21,200,000,000.  
3               “(B)      For      fiscal      year      2001,  
4               \$23,300,000,000.  
5               “(C)      For      fiscal      year      2002,  
6               \$25,200,000,000.”.

7       (b) TEMPORARY RESTORATION OF PERIODIC IN-  
8 TERIM PAYMENT FOR HOME HEALTH SERVICES.—Sec-  
9 tion 1815(e)(2) of the Social Security Act (42 U.S.C.  
10 1395g(e)(2)) (as amended by section 4603(b) of the Bal-  
11 anced Budget Act of 1997) is amended—

12               (1) in subparagraph (C), by striking “and” at  
13 the end;

14               (2) by redesignating subparagraph (D) as sub-  
15 paragraph (E); and

16               (3) by inserting after subparagraph (C) the fol-  
17 lowing:

18               “(D) home health services until the end of the  
19 12-month period following the date that the prospec-  
20 tive payment system for such services is imple-  
21 mented pursuant to section 1895; and”.



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**1 SEC. 5. EFFECTIVE DATE.**

2       The amendments made by this Act shall take effect  
3 as if included in the provisions of the Balanced Budget  
4 Act of 1997 to which they apply.

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